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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,871	12/21/2001	Hiroyuki Kawae	01-764	1848

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Gregory P. LaPointe
BACHMAN & LaPOINTE, P.C.
900 Chapel Street, Suite 1201
New Haven, CT 06510-2802

EXAMINER

QUARTERMAN, KEVIN J

ART UNIT	PAPER NUMBER
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2879

DATE MAILED: 12/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/026,871

Applicant(s)

KAWAE ET AL.

Examin r

Kevin Quarterman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. Applicant's response filed 16 September 2003 has been entered and overcomes the objections to the drawings cited in the Examiner's previous office action mailed 19 June 2003.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Sano (JP 200002216).

4. The Examiner notes that US Patent No. 6472765 is being used as an English translation of the Japanese reference.

5. Regarding independent claim 1, Figure 1 of Sano shows a light-permeable fluorescent cover (10) comprising a fluorescent material (7). The Examiner notes that the functional recitations of the fluorescent material have not been given patentable weight because an apparatus must be distinguished from the prior art in terms of structure rather than function. Apparatus claims cover what a device *is*, not what a device *does* (MPEP § 2114 [R-1]).

6. Regarding claims 2-4 and 7, the functional recitations have not been given patentable weight because of the reasons given above.

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7. Regarding claims 5-6, Sano discloses the fluorescent material of the fluorescent cover including fluorescent lanthanoid aluminates activated by manganese (col. 5, In. 32-44).

8. Regarding claim 8, Sano discloses the fluorescent cover comprising a base material formed of one or more resins selected from the group consisting of silicon, polyester, acrylic acid, epoxy, urethane, nylon, polyamide, polyimide, vinyl chloride, polycarbonate, polyethylene, Teflon, polystyrene, polypropylene and polyolefin (col. 4, In. 45-49).

9. Regarding claim 9, Figure 1 of Sano shows the cover having a varied thickness along emission intensity distribution of the light-emitting diode.

10. Regarding claim 10, Figure 1 of Sano shows the cover being attached on and in close and clinging contact to the light-emitting diode.

11. Regarding claim 11, the cover shown in Figure 1 of Sano is thermally shrinkable (col. 2, In. 41-44).

12. Regarding claim 12, Sano discloses a light permeable adhesive agent adhering the cover to the light-emitting diode (col. 5, In. 52-53).

13. Regarding claim 13, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, the limitation of the method of forming the cover has not been given patentable weight.

14. Regarding claim 14, Sano discloses the fluorescent material including manganese (col. 5, In. 32-44).

Response to Arguments

15. Applicant's arguments filed 16 September 2003 have been fully considered but they are not persuasive.

16. In response to applicant's argument that the applied reference (Sano) does not teach a fluorescent material capable of converting wavelength of a single light into two different wavelengths, the Examiner respectfully disagrees. To defend this position, applicant points out that Figure 4 of the instant application shows lanthanoid aluminate selected as the fluorescent material having this capability. As set forth at column 5, lines 32-37 of Sano, Sano discloses a basic material for the fluorescent substance including aluminates of rare earth elements, in addition to other elements. The Examiner notes that the rare earth elements includes the lanthanoid series of the periodic table. Thus, the Examiner concludes that Sano does indeed teach a fluorescent material capable of converting wavelength of a single light into two different wavelengths.

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

18. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Quarterman whose telephone number is (703) 308-6546. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (703) 305-4794. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7382 for regular communications and (703) 308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Kevin Quarterman
Examiner
Art Unit 2879

kq 
November 19, 2003



**Nimesh Patel
Supervisory Patent Examiner
Art Unit 2879**